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7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
9 **SAN JOSE DIVISION**

10
11 AMERICAN FEDERATION OF
TEACHERS, *et al.*,

12
13 Plaintiffs,

14 v.

15 ELISABETH DEVOS, in her official capacity
16 as Secretary of Education, *et al.*,

17 Defendants.
18

Case No.: 5:20-cv-455-EJD

**DEFENDANTS' RESPONSE TO
CALIFORNIA'S ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
CASES SHOULD BE RELATED**

19 Pursuant to Civil Local Rule 3-12(e), Defendants submit this response to the State of
20 California's third-party Administrative Motion To Consider Whether Cases Should Be Related. The
21 State suggests that its separately-filed case, *California v. DeVos et al.*, No. 5:20-cv-1889-NC, is
22 "related" to the above-captioned action based on the definition of "related cases" in Civil Local Rule
23 3-12(a). That Rule states that an action is related to another action if "(1) The actions concern
24 substantially the same parties, property, transaction or event; and (2) It appears likely that there will
25 be an unduly burdensome duplication of labor and expense or conflicting results if the cases are
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1 conducted before different Judges.” Civil L.R. 3-12(a).

2 Defendants acknowledge that the State’s case and the above-captioned action both raise
3 challenges under the Administrative Procedure Act, 5 U.S.C. §§ 701-706, to the same Final Rule
4 promulgated by the U.S. Department of Education in 2019, *see* 84 Fed. Reg. 31, 392 (July 1, 2019).
5 Defendants note that they anticipate moving to dismiss each of these actions in separate motions, and
6 that the arguments in support of dismissal will likely raise different issues in each case. However,
7 should the cases proceed beyond the pleading stage, there may be a risk of duplication of labor or
8 conflicting results if the cases are conducted before different Judges.
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10 Dated: April 1, 2020

11 Respectfully submitted,

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